

S.B. CRIMINAL MISC. PETITION NO.217/2007
(Smt.Kusum Vs. State of Raj. & Ors.)

Date of order : : 15.05.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.R.K.Charan, for the petitioner/complainant.
Mr.Ashok Upadhyay, PP for the State.
Mr.B.S.Charan, for the respondents/accused.

By this criminal misc. petition under Section 482 Cr.P.C., the petitioner has prayed for quashing of criminal proceedings pending against the accused-respondents in the court of Judicial Magistrate, Bhilwara in Criminal Case No.118/2002 for offence under Sections 498-A, 406, 494 and 420 I.P.C. arising out of FIR No.42/2002 P.S. Mahila Thana, District Bhilwara.

Heard learned counsel for the the petitioner as well as learned Public Prosecutor and the learned counsel for the respondents.

Learned counsel for the petitioner states that it is a matrimonial dispute between the parties which has resulted into criminal proceedings against the accused-respondents under Sections 498-A, 406, 494 and 420 I.P.C. pending in the court of

Judicial Magistrate, Bhilwara. Now, both the parties have come to the comprise and they have no grievance against each other. Learned counsel for the petitioner further states that petitioner and her husband (the respondent No.1) have also got their marriage dissolved by way of mutual consent and obtained divorce under Section 13-B of the Hindu Marriage Act vide order dated 12.1.2007 passed by learned District Judge, Bhilwara. Since the matter has been compromised between the parties, therefore, the petitioner-complainant moved an application for dropping of the criminal proceedings pending against the accused-persons but no effective order has been passed. Learned counsel further states that the learned trial court despite the fact that parties have entered into compromise, has proceeded ahead in the criminal case pending against them.

In support of his arguments, learned counsel for the petitioner has placed reliance upon the judgment rendered by Hon'ble Supreme Court in case of B.S. Joshi & Ors. Vs. State of Haryana, reported in (2203) 4 SCC 675.

Learned Public Prosecutor and learned counsel for the

accused-respondents have also submitted before me that decree of divorce by mutual consent has been granted by the Family Court and now both the parties are living separately and compromise has entered into between the parties.

I have considered the arguments made by learned counsel for the parties and gone through the record of the case as well as the documents produced before me by the learned counsel for the parties. I have also gone through the judgment cited by learned counsel for the petitioner in case of B.S. Joshi & Ors. (supra) wherein their Lordships while considering the object of introducing Chapter XX-A containing Section 498-A, have observed as under:

“There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her to her relatives to satisfy unlawful demands of dowry. The hyper technical view would be counterproductive and would act against interest of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter

XX-A of the Indian Penal Code”.

“In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code”.

Taking into consideration the statement made by the learned counsel for the parties, I am satisfied that the parties have genuinely settled their matrimonial dispute and now they have no grievance against each other. In this view of the matter and taking into account the judgment rendered by Hon'ble Supreme Court in case of B.S. Joshi & Ors. (supra), I find it to be a fit case where inherent jurisdiction under Section 482 Cr.P.C. should be exercised.

For the reasons as stated hereinabove, I allow this misc. petition and quash the proceedings against the respondents No. 2 to 4 pending in the court of Judicial Magistrate, Bhilwara in Criminal Case No.118/2002 for offence under Section 498-A, 406, 494 and 420 I.P.C.

(KRISHAN KUMAR ACHARYA), J.

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